

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-0922V

UNPUBLISHED

KEVIN DELAPAZ,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 19, 2020

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barre Syndrome (GBS)

*Renee J. Gentry, Vaccine Injury Clinic, George Washington University Law School, Washington, DC, for Petitioner.*

*Lara Ann Englund, U.S. Department of Justice, Washington, DC, for Respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On June 27, 2018, Kevin Delapaz filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that he suffered from Guillain-Barré syndrome ("GBS") as a result of an influenza ("flu") vaccination administered on January 20, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 27, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On November 18, 2020, Respondent filed a proffer on award of compensation ("Proffer") indicating Petitioner should be awarded \$683,398.81, comprised of \$195,000.00 for pain and suffering, \$485,941.00 for past and future lost

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

wages, and \$2,457.81 for past, unreimbursable medical expenses. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$683,398.81, comprised of \$195,000.00 for pain and suffering, \$485,941.00 for past and future lost wages, and \$2,457.81 for past, unreimbursable medical expenses, in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

On March 26 2020, respondent filed a Vaccine Rule 4(c) report concluding that petitioner suffered Guillain-Barre Syndrome within the Table timeframe following an influenza vaccination, which was compensable under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§ 300aa-10 to -34. Accordingly, on March 27, 2020, the Chief Special Master issued a Ruling on Entitlement.

Respondent proffers that petitioner should be awarded \$195,000.00 for pain and suffering, \$485,941.00 for past and future lost wages, and \$2,457.81 for past, unreimburseable medical expenses. These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

## **II. Form of the Award**

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$683,398.81** in the form of a check payable to petitioner.<sup>1</sup> This lump sum payment represents all elements of compensation to which petitioner would be entitled under **42 U.S.C. § 300aa-15(a)**. Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

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s/ LARA A. ENGLUND  
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Dated: November 18, 2020

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.